

covered by a natural disaster declaration related to Hurricane Katrina, Hurricane Ophelia, Hurricane Rita, Hurricane Wilma or conditions related to those hurricanes, and includes counties which qualify because they are contiguous to a county that qualifies by a natural disaster declaration.

*Milk handler or cooperative* means the marketing agency to, or through which, the producer commercially markets whole milk.

*Milk marketings* means a marketing of milk for which there is a verifiable sales or delivery record of milk marketed for commercial use. In counting milk toward production amounts, dumped milk will not be considered as marketed for commercial use. Such dumped milk shall be counted toward production but will be accounted for separately from milk that is marketed for normal commercial use as determined by the Deputy Administrator. All production in the months for which loss coverage is available will be counted in making determinations under this part, as determined by the Deputy Administrator, with care to avoid double counting, and with care to avoid a calculated loss that overstates the actual losses. Adjustments may be made as appropriate to accomplish these objectives.

*Natural disaster declaration* means a natural disaster declaration issued by the Secretary of Agriculture during calendar year 2005 under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 (a)), or a major disaster or emergency designation by the President of the United States during calendar year 2005 under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, including declarations and designations by both the President and Secretary made during calendar year 2006 for which a request was pending as of December 31, 2005.

*Payment pounds* means the pounds of milk production from a dairy operation for which the dairy producer is eligible to be paid under this subpart.

*Producer* means any individual, group of individuals, partnership, corporation, estate, trust association, cooperative, or other business enterprise or other legal entity who is, or whose

members are, citizens of, or legal resident aliens in the United States, and who directly or indirectly, as determined by the Secretary, share in the risk of producing milk, and make contributions (including land, labor, management, equipment, or capital) to the dairy farming operation of the individual or entity.

*Reliable production records* means evidence provided by the producer that is used to substantiate the amount of production reported when verifiable records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, and records to verify production costs, contemporaneous measurements, and contemporaneous diaries that are determined acceptable by the county committee.

*Starting base production* means actual commercial production marketed by the dairy operation during the base month applicable to the 2005 hurricane disaster, or alternative period established by the Deputy Administrator.

*Verifiable production records* means evidence that is used to substantiate the amount of production including any part marketed normally, dumped, or otherwise disposed of, and that can be verified by CCC through an independent source.

**§ 1430.603 Time and method of application.**

(a) Dairy producers may obtain an Application, in person, by mail, by telephone, or by facsimile from any county FSA office. In addition, applicants may download a copy of the Application at <http://www.sc.egov.usda.gov>.

(b) A request for benefits under this subpart must be submitted on a completed Application as defined in §1430.602. Applications and any other supporting documentation shall be submitted to the FSA county office serving the county where the dairy operation is located but, in any case, must be received by the FSA county office by the close of business on the date established by the Deputy Administrator. The closing date shall be no sooner than November 30, 2006. Applications not received by the close of business on such date will be disapproved as not having been timely filed and the

dairy producer will not be eligible for benefits under this program.

(c) All persons who share in the risk of a dairy operation's total production must certify to the information on the Application before the Application is considered complete.

(d) Each dairy producer requesting benefits under this subpart must certify to the accuracy and truthfulness of the information provided in their application and any supporting documentation. All information provided is subject to verification by CCC. Refusal to allow CCC or any other agency of the Department of Agriculture to verify any information provided will result in a denial of eligibility. Furnishing the information is voluntary; however, without it program benefits will not be approved.

#### § 1430.604 Eligibility.

(a) Producers in the United States are eligible to receive hurricane-related dairy disaster benefits under this part only if they have suffered dairy production or dairy spoilage losses in 2005 as a result of a hurricane disaster or related condition, in a hurricane-affected county. To be eligible to receive payments under this subpart, producers in a dairy operation must:

(1) Have produced and commercially marketed milk in the United States and commercially marketed the milk produced during the 2005 calendar year;

(2) Be a producer on a dairy farm operation physically located in an eligible county where dairy production and milk spoilage losses were incurred as a result of 2005 hurricanes, or a related condition, in and limiting their claims to losses occurring in those counties and contiguous counties;

(3) Provide adequate proof, to the satisfaction of the County Committee, of monthly milk production dumped and commercially marketed by all persons in the eligible dairy operation during the base month and claim period that corresponds with the applicable hurricane-related disaster during the 2005 milk marketing year, or other period as determined by CCC, to determine the total pounds of eligible losses that will be used for payment; and

(4) Apply for payments during the application period established by the Deputy Administrator.

(b) Payments may be made for losses suffered by an otherwise eligible producer who is now deceased or is a dissolved entity if a representative who currently has authority to enter into a contract for the producer or the producer's estate signs the application for payment. Proof of authority to sign for the deceased producer's estate or a dissolved entity must be provided. If a producer is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly-authorized representatives must sign the application for payment.

(c) Producers associated with a dairy operation must submit a timely application and comply with terms and conditions of this subpart, instructions issued by CCC and instructions contained in the Application to be eligible for benefits under this subpart.

(d) As a condition to receive benefits under this part, a producer must have been in compliance with the Highly Erodible Land Conservation and Wetland Conservation provisions of 7 CFR part 12 for the 2005 calendar year, as applicable, and must not otherwise be barred from receiving benefits under 7 CFR part 12 or any other law or regulation.

(e) Payments are limited to losses in eligible counties, in eligible months.

(f) All payments under this part are subject to the availability of funds.

(g) Eligible losses are determined from the applicable base month that corresponds to the hurricane disaster or related condition and must have occurred during the claim periods applicable to the disaster as follows:

(1) For Hurricane Katrina and Hurricane Rita the base month is July 2005 and the corresponding claim period are the 2005 calendar months of August through December; and

(2) For Hurricane Ophelia and Hurricane Wilma the base month is September 2005 and the corresponding claim period are the 2005 calendar months of October through December.